

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES DIMORA,

Case No. 4:14CV01221

Plaintiff,

Judge Benita Y. Pearson

vs.

MOTION TO CONTINUE
TRIAL DATE

NORTHEAST OHIO CORRECTIONS
CENTER, ET AL.

Plaintiff, James Dimora, with no objection from counsel for the Defendant, hereby moves this Court to continue the April 3, 2016 trial date scheduled in the above-captioned matter. The reasons for this Motion are more fully set forth in the Memorandum in Support hereof.

Respectfully submitted,

/s/ Dennis A. Lieberman

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MEMORANDUM IN SUPPORT

On March 7, 2016, this Court held a Telephone Status Conference in which an effort to resolve the case was to be conducted by the parties. An offer was forthcoming from the Defendant in response to Plaintiff's offer of several months prior. Counsel for Plaintiff believed that James Dimora was located at the F.C.C. Victorville, California where he has been located for several years. Counsel immediately contacted the facility and scheduled a telephone conference with legal assistant Nicole Brown. The conference with James Dimora was scheduled for Wednesday, March 9, 2016 at 12:00 p.m.

No conference took place on March 9, 2016 and counsel was advised by Ms. Brown that they were in a lockdown and the staff would not be available during the lockdown. The lockdown was to last through Friday, March 11, 2016. Therefore, counsel for Plaintiff immediately filed a Motion which was granted by this Court to extend the date in which to advise the Court of the status of negotiations from March 14, 2016 to March 16, 2016.

Plaintiff's counsel once again telephoned Ms. Brown to set up a conference for either Monday, March 14, 2016 or Tuesday, March 15, 2016. Counsel also confirmed the request in an email. Ms. Brown on Monday, March 14, 2016 stated that they were still on lockdown and she was not able to contact the staff. On Monday, March 14, 2016, counsel once again telephoned Ms. Brown who advised that they were still on lockdown but that she anticipated being able to contact the staff that afternoon or the next morning Tuesday, March 15, 2016. Ms. Brown's father suffered a heart attack on Monday, March 15, 2016 and therefore she was not able to contact the staff until Tuesday, March 15, 2016.

In the afternoon of March 15, 2016, counsel received an email from Nicole Brown who advised Plaintiff's counsel that James Dimora was no longer an inmate at their facility. He is in

the process of being transferred and is currently in a federal holding institution somewhere in Oklahoma. She did not know when he would reach his final destination. Nor did she identify the federal holding institution.

Counsel is optimistic that a resolution of this case will take place. However, it is now clear that counsel cannot communicate the offer to his client until some unknown time in the future. It also is impossible for the Plaintiff to testify by video or otherwise at his own trial.

Counsel understands the reluctance of this Court to continue the April 3, 2016 trial date. However, neither the Plaintiff nor Defendant caused the circumstances in which he is now found. Communications is impossible until he reaches his final destination. Therefore, it is reluctantly and respectfully requested that this Court continue the April 3, 2016 trial date so counsel can communicate the offer to resolve the instant case. Counsel for Defendant does not object to the request for a continuance of the trial.

Respectfully submitted,

/s/ Dennis A. Lieberman

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of March 2016, this document was electronically filed via the Court's authorized electronic filing system, which will send notifications of this filing to all parties.

/s/ Dennis A. Lieberman

Dennis A. Lieberman (0029460)